IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2170 OF 2004

Henry D'Souza and 2 Ors. ...Petitioners.
Versus
Daggerforst Tools Ltd.,
and Anr. ...Respondents.

....

Mr.A.G.Lalla, i/b. Lalla & Lalla for the Petitioners.
Mr.H.H.Nagi, Advocate for Respondent No.1.
Mrs.M.M.Deshmukh, APP, for the State.

....

CORAM : SMT.V.K.TAHILRAMANI,J.

DATED : AUGUST 24, 2006.
(IN CHAMBER)

P.C.:

1. Heard Mr.Lalla learned Advocate for the petitioners-original accused Nos.2, 5 & 7, Mr.Nagi learned Advocate for Respondent No.1-original complainant and Mrs.Deshmukh, learned APP for the State.

2. The petitioners are seeking quashing of process issued in CC No.2338/S/03, which is pending before the learned Additional Chief Metropolitan Magistrate, 47th Court, Esplanade,

Mumbai. In the said case, process was issued against the petitioners under Sections 138 of the Negotiable Instruments Act.

3. In view of the decision of this Court in the case of **V.K.Jain and others Vs. Pratap V. Padode, reported in 2005(3) Mh.L.J.778,** I am of the opinion that the petitioners have an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the petitioners prefer a revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the petitioners to prefer the necessary revision before the concerned Sessions Court. The learned Counsel for the petitioners make a statement that the necessary revision will be preferred within a period of four weeks from today. In view of this statement, stay granted by this Court to the proceedings, stands extended for a period of four weeks from today.

5. In case, the revision is preferred within a period of four weeks from today, the learned Sessions Judge shall dispose of the matter on merits after hearing the necessary parties. Mr.Nagi learned Counsel for Respondent No.1-original complainant fairly states that no objection would be raised in respect of delay in filing revision before the concerned Sessions Court.

6. Criminal Writ Petition is disposed of.

(SMT.V.K.TAHILRAMANI,J.)